



ALASKA FEDERATION
OF NATIVES

April 25, 2012

The Honorable Ken Salazar
The Secretary of the Interior
US Department of the Interior
Office of the Secretary
Washington, D.C. 20240

RE: Comments of the Alaska Federation of Natives regarding Department's of Interior's Draft Policy on Consultation with Alaska Native Claims Settlement Act (ANCSA) Corporations

Dear Secretary Salazar:

On behalf the Board of Directors of the Alaska Federation of Natives (AFN) and its membership, I thank you for giving AFN an opportunity to submit comments and recommendations on the Department of the Interior's Draft ***Consultation Policy on with Alaska Native Claims Settlement Act (ANCSA) Corporations***. AFN is the largest statewide Native organization in Alaska. Its membership includes 178 villages (both federally-recognized tribes and village corporations), 13 regional Native corporations and 12 regional nonprofit and tribal consortiums that contract and run federal and state programs. AFN is governed by a 37-member Board. The mission of AFN is to enhance and promote the cultural, economic and political voice of the entire Alaska Native community.

AFN continues to support a single consultation policy for the ANCSA Corporations and the federally recognized tribes located within the State of Alaska. Our reasons for opposing your bifurcated approach to consultation are fully explained in our comments on the Department of Interior's Draft Tribal Consultation Policy submitted by letter dated February 18, 2011. A copy of this letter is attached for your ready reference. We continue to believe a dual consultation policy will create confusion and even conflicts within villages that have both ANCs and Tribes.

Turning to the proposed draft consultation policy with ANCSA corporations, we offer the following comments and recommendations:

Section III. Definitions

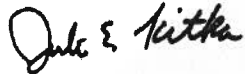
The definitions provided in the policy for consultation with ANCSA corporations incorporates those provided in the Tribal consultation policy; therefore, we reiterate our original recommendation with regard to the definition of "Indian Tribe." Since the passage of the Alaska

Native Claims Settlement Act (ANCSA), Congress has seen fit to define Alaska Native Corporations (ANC's) as "Indian tribes" and ANCSA lands as "Indian lands." For the reasons set forth in our February 18, 2011, letter, AFN recommends that the definition be expanded to include Alaska Native Corporations.

Unfortunately, the Department final tribal consultation policy does not include consultation with Alaska Native regional non-profit organizations. As we noted in our original comments, the non-profit organizations have become significant organizations within the Alaska Native institutional framework. They provide services and institutional support to villages within their region. They are particularly important to smaller villages, which most often lack the financial and human resources to provide the services that a regional entity is able to do. Most of the regional non-profits are in actuality tribal government consortia, with governing board composed of representatives from federally recognized tribes. The non-profits have largely been excluded from the ongoing consultation sessions and efforts, which is not necessarily in the best interest of our tribes or ANCs.

Thank you for your consideration. If you have any questions regarding the comment and recommendations please call me at AFN at 907-274-3611.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie E. Kitka".

Julie Kitka
President

Attachment: February 18, 2012 Letter RE: Comments of the Alaska Federation of Natives
regarding Department's Draft Consultation Policy



**ALASKA FEDERATION
OF NATIVES**

February 18, 2011

The Honorable Ken Salazar
The Secretary of the Interior
US Department of the Interior
Office of the Secretary
Washington, D.C. 20240

***RE: Comments of the Alaska Federation of Natives regarding Department's Draft
Consultation Policy***

Dear Secretary Salazar:

On behalf the Board of Directors of the Alaska Federation of Natives (AFN) and its membership, thank you for giving AFN an opportunity to submit AFN's comments and recommendations on the Department of the Interior's Draft Tribal Consultation Policy. AFN is the largest statewide Native organization in Alaska. Its membership includes 178 villages (both federally-recognized tribes and village corporations), 13 regional Native corporations and 12 regional nonprofit and tribal consortiums that contract and run federal and state programs. AFN is governed by a 37-member Board. The mission of AFN is to enhance and promote the cultural, economic and political voice of the entire Alaska Native community.

The AFN Board of Directors in its meeting of February 10, 2011 directed that AFN offer the following recommendations and comments relative to the draft policy:

Section III. Definitions

E. Indian Tribe – An Indian or Alaska Native Tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 199, 25 U.S.C. 479a.

AFN recommends that the definition be expanded to include Alaska Native Corporations. The Alaska Native Claims Settlement Act (ANCSA) was enacted in 1971 to settle the aboriginal land claims of Alaska Natives. Congress created Alaska Native corporations (ANCs) to implement the Act. Since that time period, Congress has enacted over 100 legislative acts that define ANCs as "Indian tribes" or ANCSA lands as "Indian lands¹."

¹ (Sealaska Report ANCSA Corporations and the Definition of "Tribe" 1999. An updated report is in progress).

AFN appreciates that your draft policy **Section IX. Supplemental Policies** recognizes that "Consistent with Federal appropriations law, the Department shall develop a policy for consultation with Alaska Native Corporations."

AFN, however, does not support the Department of Interior's proposed bifurcated approach to consultation, and recommends that a single consultation policy be developed for both ANCs and tribes.

The Consolidated Appropriations Act for Fiscal Year 2004 directed the Office of Management and Budget (OMB) to consult with Alaska Native corporations on the same basis as Indian Tribes under Executive Order No. 13175. *See* Pub. L. No. 108-199, Division H, Section 161. Similarly, the Consolidated Appropriations Act for Fiscal Year 2005 requires "all Federal agencies", in addition to the OMB, to consult with Alaska Native Corporations pursuant to Executive Order 13175. *See* Pub. L. No. 108-447, Division H, Title V, Section 518.

The law nor the Executive Order require a separate consultation for Alaska Native Corporations. As far as we are aware, the Department of Interior is the single department proposing dual consultation policies for tribes and ANCs.

The institutional development and the current organizational structures and interrelationships among Alaska Natives, which evolved over a 50 year period, differ from that of tribes in the lower forty-eight states. AFN maintains that the DOI Consultation Policy should recognize and respect the interrelationships between ANCs and tribes.

A dual consultation policy can create additional demands and regretfully, potential confusion and even conflicts within villages that have both ANCs and Tribes. Additionally, local villages represented by either a village ANC or a tribe or both, have developed relationships with their respective regional ANCs that could be similarly disrupted by the dual consultation approach. A significant number of ANCs provide services and advocacy that are outside the realm of other profit-making corporations, and they work with village entities to advance the general welfare of their mutual constituents. They have become, in the true sense of the word, tribal corporations.

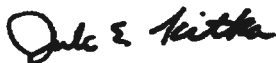
AFN recognizes that the Alaska Native regional non-profit organizations do not have the same legal attributes as federally-recognized tribes. However, AFN recommends that the DOI Consultation Policy recognize Consortia of Tribes within Alaska. The non-profit organizations have become significant organizations within the Alaska Native institutional framework. They provide services and institutional support to villages within their region. They are particularly important to smaller villages, which most often lack the financial and human resources to provide the services that a regional entity is able to do. Most of the regional non-profits are in actuality tribal government consortia, with governing board composed of representatives from federally recognized tribes. Unfortunately, the non-profits have largely been excluded from the ongoing consultation sessions and efforts, which is not necessarily in the best interest of Native communities. The Department of Health and Human Services Administration for Children and Families Tribal Consultation Policy includes in its policy "Consortia of Tribes," which include two or more Federally Recognized Indian Tribes. AFN believes this is a model that DOI might recognize in its consultation policy.

In summary, AFN requests that the DOI Consultation Policy adopt the following recommendations:

- that the definition of Indian Tribe be expanded to include Alaska Native Corporations,
- that a single consultation policy be developed for Alaska that includes both ANCs and tribes, and;
- that Consortia of Tribes be included.

Thank you for your consideration. If you have any questions regarding the comment and recommendations that I am submitting on behalf of the Alaska Federation of Natives, please call me at AFN at 907-274-3611.

Sincerely,



Julie Kitka
President